

THE COMMONWEALTH PLAN, INC.

1255 BOYLSTON STREET, BOSTON, MASSACHUSETTS 02215

EXECUTIVE OFFICES

AREA CODE 617
266-4950

October 27, 1972

116431

OCT 31 1972

Mr. Robert L. Oswald
Secretary
INTERSTATE COMMERCE COMMISSION
Washington, D. C., 20423

100.00

ICC, Washington, D. C.

FILE IN DOCKET

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Dear Sir:

We enclosed for recording with your office the following:

1. Original and two certified true copies of Railroad Equipment Leasing Agreement dated as of September 15, 1972, between the following parties:

Lessor: THE COMMONWEALTH PLAN, INC.
1255 Boylston Street
Boston, Massachusetts 02215

Lessee: SOUTHERN PACIFIC TRANSPORTATION COMPANY
One Market Street
San Francisco, California 94105 (Filed pursuant to the Provisions of Section 20c of the Interstate Commerce Act)

6779

2. Original and two certified true copies of an Assignment dated September 15, 1972 assigning the rents and other rights under said Railroad Equipment Leasing Agreement, said Assignment being between the following parties:

Assignor: THE COMMONWEALTH PLAN, INC.
1255 Boylston Street
Boston, Massachusetts 02215

Assignee: THE FIRST NATIONAL BANK OF BOSTON
100 Federal Street
Boston, Massachusetts 02110

The general description of the equipment covered by the said Railroad Equipment Leasing Agreement is as follows:

Type	AAR Mechanical Designation	Number of Units	Symbol and Numbers
40' 100 ton railroad boxcars having Hydra-cushion underframes and equipped with belt rails and crossbars	XL	300	SP 605000 through SP 605299 inclusive

6779

RECORDATION NO. 6779 Filed & Recorded

OCT 31 1972 - 1 15 PM

Mr. Robert L. Oswald

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9300

No prior recordation of any of the enclosures has been made.

We also enclose check of The Commonwealth Plan, Inc. payable to the Interstate Commerce Commission in the amount of \$100.00 for recording fee. Would you please return one copy of the recorded documents in due course to:

James Rice, Esquire
BINGHAM, DANA AND GOULD
100 Federal Street
Boston, Massachusetts 02110

Very truly yours,

THE COMMONWEALTH PLAN, INC.

By

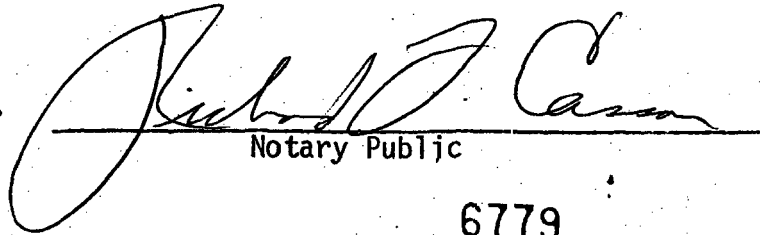

Associate Counsel

RFC/srk
Enclosures

CERTIFICATE OF NOTARY PUBLIC

I, Richard F. Casson, a duly commissioned Notary Public for the Commonwealth of Massachusetts do hereby certify that I have compared the attached copy of Railroad Equipment Leasing Agreement dated September 15, 1972 between The Commonwealth Plan, Inc., Lessor and Southern Pacific Transportation Company, Lessee, with the original of said Railroad Equipment Leasing Agreement and that I have found that the attached copy is in every respect a true, exact and correct copy of the said original.

IN WITNESS WHEREOF, I do hereto set my hand and seal as a Notary Public as the aforesaid, this 27th day of October, 1972, in the City of Boston, County of Suffolk, Commonwealth of Massachusetts.


Notary Public

6779

My Commission Expires: August 14, 1975

RECORDATION NO. _____ Filed & Recorded
OCT 31 1972 - 1:15 PM
NOTARY PUBLIC COMMISSION

RAILROAD EQUIPMENT LEASING AGREEMENT

Leasing Agreement made as of the *15th* day of *September*, 1972 in the City of Boston, Commonwealth of Massachusetts, by and between THE COMMONWEALTH PLAN, INC. of Boston, Massachusetts (herein called "Lessor") and SOUTHERN PACIFIC TRANSPORTATION COMPANY of San Francisco, California (herein called "Lessee").

In consideration of the mutual covenants hereinafter contained, Lessor and Lessee agree as follows:

1. Definitions. As herein used:

- (a) "Equipment" means the following types of Equipment owned or to be owned by the Lessor and leased by the Lessor to the Lessee or ordered by the Lessor for lease to the Lessee as provided herein:

<u>TYPE</u>	<u>AAR MECHANICAL DESIGNATION</u>	<u>NUMBER OF UNITS</u>	<u>MARKED</u>	<u>SYMBOL AND NUMBERS</u>
40' 100 ton railroad boxcars having Hydra-cushion underframes and equipped with belt rails and crossbars.	XL	300	"Southern Pacific Transportation Company" and "Property of The Commonwealth Plan, Inc., Owner and Lessor"	SP 605000 through SP 605299 inclusive

- (b) "Acquisition cost" of Equipment is an amount equal to the sum of the vendor's delivered price, any excise tax on the Equipment, any sales and use taxes, expenses of installation and freight and other expenses required to effect delivery of the Equipment to the Lessee.
- (c) "Individual Leasing Record" is a record with respect to Equipment dated the date of the acceptance for lease of the Equipment by the Lessee and setting forth a full description of the Equipment, its acquisition cost, the location of the Equipment and such other details as the parties may desire. The Individual Leasing Record shall contain a short form of lease to be executed by each of the parties reading substantially as follows:

"The undersigned Lessor hereby leases to the undersigned Lessee, and the Lessee acknowledges delivery to it in good condition of, the Equipment described above. The covenants, terms and conditions of this lease are those appearing in a general Railroad

Equipment Leasing Agreement between the undersigned Lessor and Lessee dated _____, 1972 which covenants, terms and conditions are hereby incorporated by reference.

THE COMMONWEALTH PLAN, INC., Lessor

By _____

SOUTHERN PACIFIC TRANSPORTATION COMPANY, Lessee

By _____ "

- (d) "Rent" and "estimated market value" for each unit of Equipment for each quarter during the lease term of the Equipment will be dollar amounts bearing the same ratios to the quarterly rental and estimated market value for such quarter set forth in the Exhibit pertaining to such Equipment annexed hereto as the acquisition cost of such Equipment bears to One Thousand Dollars (\$1,000). The following Exhibits annexed hereto relate to the types of Equipment set forth below:

Exhibit

Type of Equipment

A

40' 100 ton railroad boxcars having
Hydra-cushion underframes and equipped
with belt rails and crossbars

"Rent" for each unit of Equipment for any extension of the lease term shall be an amount for each quarter equal to the then fair rental value of such unit as agreed by Lessor and Lessee.

2. Agreement for Lease of Equipment. Lessor and Lessee agree that on or before March 31, 1973 Lessor shall acquire and lease to Lessee and Lessee shall lease from the Lessor Equipment having a total aggregate acquisition cost of approximately \$6,185,000, provided that the Equipment can be obtained. In addition, Lessor shall lease to Lessee and Lessee shall lease from Lessor such other Equipment as may be mutually agreed upon. All such leases shall be entered into in the manner and upon the terms and conditions set forth in this Agreement. Lessor and Lessee shall evidence their agreement to lease particular units of Equipment by signing and delivering to each other an Individual Leasing Record describing the Equipment. A request by the Lessee to the Lessor to acquire particular Equipment for lease hereunder shall obligate the Lessee to lease the Equipment from the Lessor upon acceptance of the Equipment by the Lessee.

3. Delivery. Lessor shall not be liable to Lessee for any failure or delay in obtaining Equipment or making delivery thereof. Upon acceptance for lease of Equipment by Lessee and receipt by Lessor of vendor's invoice for such Equipment approved by Lessee together with an Individual Leasing Record with respect to the Equipment duly executed by Lessee, Lessor shall remit to the vendor a check for the total of the vendor's invoice for such Equipment, provided that the amount paid to the vendor by Lessor shall not exceed the acquisition cost of the Equipment. If the amount paid to the vendor by Lessor is less than the acquisition cost of the Equipment, to the extent that delivery costs or costs of additions to the Equipment have been met by Lessee, and do not exceed the acquisition cost, Lessor shall reimburse Lessee to the extent of such payment made by Lessee up to the amount of the acquisition cost.
4. Lease term. The lease for each unit of Equipment shall become effective on the date the Equipment is accepted for lease by the Lessee, and the Individual Leasing Record for the Equipment shall be dated such date. If the lease of any Equipment becomes effective on other than the first day of January, April, July or October in any year, the rent for each day of the first partial quarter of the lease of such Equipment shall be as set forth in the pertinent Exhibit annexed hereto. Notwithstanding the foregoing, the provisions of Section 9 and the first sentence of Section 11 of this Leasing Agreement shall apply as between Lessor and Lessee with respect to any Equipment from the time the Equipment is ordered by the Lessor pursuant to a request from the Lessee. The term of the lease of each unit of Equipment shall be for a period beginning with the effective date thereof and ending fifteen years after the last day of the quarter during which the effective date of the lease of the Equipment occurs unless terminated as provided in Sections 10, 11, or 14 hereof. Thereafter the lease may be extended from quarter to quarter until terminated by Lessee by written notice to Lessor, at a fair rental to be agreed between them.
5. Rent. Lessee shall pay rent quarterly in advance on the first day of January, April, July and October in each year. Reports from Lessee shall be rendered as close to the first of each quarter as possible covering the computation of rent and other payments due hereunder for the quarter, adjustments on the preceding quarter's rent resulting from commencement or termination of individual leases during such quarter and other appropriate items, if any.
6. Use of Equipment. Lessor and Lessee hereby acknowledge and agree that this Agreement is and is intended to be a lease and that the Equipment leased hereunder shall at all times be the sole and exclusive property of Lessor, and Lessee shall have no right, title or property therein but only the right to use the same as herein provided. So long as Lessee is not in

default in any obligation to the Lessor, Lessee shall have the right to use the Equipment in the regular course of its business or the business of any subsidiary or affiliate of the Lessee and to permit others to use same for any lawful purpose. Such use shall be confined to the United States and occasional use in Canada and Mexico. Lessee shall use and operate Equipment or cause it to be used and operated only by personnel authorized by Lessee and Lessee shall use every reasonable precaution to prevent loss or damage to any Equipment from fire and other hazards. Lessor may inspect any Equipment at any reasonable time except that such right shall be limited to the extent required by applicable United States government security regulations. Lessee's employees and agents shall cooperate fully with Lessor in the investigation of any claims and suits relating to Equipment. Lessee shall comply and shall use its best efforts to cause all persons using or operating Equipment to comply with all statutes, ordinances and regulations regarding the use and operation of the Equipment. Lessee may sublease any Equipment provided that the sublease is subject to and in conformity with this Leasing Agreement, but no sublease shall in any way limit or affect Lessee's obligations and duties hereunder. Lessee may not assign any right or interest hereunder or permit any lien or encumbrance to remain on Equipment other than liens placed thereon by Lessor or persons claiming against Lessor but not Lessee.

7. Improvement and Repair of Equipment. Lessor shall assign or otherwise make available to Lessee all of its rights under any vendor's or manufacturer's warranty on Equipment. Lessee shall pay all costs, expenses, fees and charges incurred in connection with the use and operation of Equipment during the lease thereof. Lessee shall at all times, at its own expense, keep Equipment in first class condition and repair and in good and efficient working order, reasonable wear and tear only excepted, but Lessee shall have a reasonable time within which to repair any loss or damage to Equipment from fire or other casualty. This provision shall apply regardless of the cause of damage and all risks with respect thereto are assumed by Lessee. At its own expense, Lessee shall supply and replace all parts to the Equipment and shall supply the necessary power and other items required in the operation of the Equipment. Any replacement parts, improvements and additions to the Equipment shall become and remain the property of the Lessor, except that any improvement or addition made by the Lessee shall remain the property of the Lessee if it can be disconnected from the Equipment without impairing the functioning of the Equipment as originally constituted when first leased hereunder.

8. Identification Markings and Numbering. At or prior to the time of the delivery of any Equipment to the Lessee by the Lessor, the Lessee shall cause to be plainly, distinctly, permanently and conspicuously marked, placed or fastened upon each side of each unit of Equipment the following legend in letters not less than one inch in height:

"PROPERTY OF THE COMMONWEALTH PLAN, INC., OWNER AND LESSOR"

At or prior to the time of delivery of any Equipment to the Lessee, the Lessee shall cause one of its car reporting marks and designated car numbers to be assigned to and marked and/or placed on each side of each unit of Equipment delivered, such car reporting marks and designated car numbers to be as follows:

SP 605000 through SP 605299; both inclusive.

At all times after delivery the Lessee will cause each unit of Equipment to bear on each side thereof the aforesaid legend and the car number so assigned to it. Such car reporting marks and designated car numbers shall not be changed by the Lessee without the prior written consent of Lessor and any assignment of Lessor. Lessee agrees to file all necessary and appropriate documents with the Interstate Commerce Commission and/or any other authority as may be required under Federal, state, or local law, rules or regulations with respect to any such change in car reporting marks and designated car numbers.

9. Indemnity. Lessee agrees to indemnify and hold harmless the Lessor against any and all claims, demands and liabilities of whatsoever nature and all costs and expenses relating to or in any way arising out of:

- (a) The ordering, delivery, acquisition, title on acquisition, rejection, installation, possession, use, operation, control or disposition of the Equipment except to the extent that such costs are included in the acquisition cost of Equipment leased hereunder within the time and dollar limits provided in Section 2 hereof (or within any extension of such limits agreed to in writing by Lessor and Lessee) and except for any general administrative expenses of the Lessor;
- (b) all recording and filing fees, stamp taxes and like expenses with respect to mortgages on the Equipment from the Lessor to any mortgagee;
- (c) all costs, charges, damages or expenses for royalties and/or claims and expenses of litigation, arising out of or necessitated by the assertion of any claim or demand based upon any infringement or alleged infringement of any patent or other right, by or in respect of

any Equipment, provided, however, that Lessor will make available to Lessee all of Lessor's rights under any similar indemnification from the manufacturer of the Equipment;

- (d) all federal, state, county, municipal or other license or qualification fees and taxes whatsoever and penalties and interest thereon, whether assessed, levied against or payable by the Lessor or otherwise, with respect to the Equipment or the purchase, sale, rental, use, operation, control or ownership of Equipment or measured in any way by the value thereof or by the business of the Lessor with respect thereto, excepting taxes on the net income of the Lessor determined substantially in the same manner as net income is presently determined under the Federal Internal Revenue Code;

and Lessee shall indemnify and hold Lessor harmless against any claim with respect thereto. Lessee shall forthwith upon demand reimburse Lessor for any sum or sums expended with respect to any of the foregoing, or shall pay for such amounts directly upon request from the Lessor or Lessor's assignee. To the extent that Lessee in fact indemnifies Lessor under the indemnity provision of this Agreement, Lessee shall be subrogated to Lessor's rights in the affected transaction and shall have the right to control litigation related to the transaction and to determine the settlement of claims therein, and where all of the acquisition cost of Equipment is paid by Lessee to Lessor pursuant to this indemnity, Lessor shall convey to Lessee all of its right, title and interest in such Equipment.

- J. Termination of Leases of Equipment. After the expiration of ten years from the last day of the quarter in which the lease of any Equipment is entered into, if such Equipment has become obsolete or is no longer useful in the Lessee's business, and provided that the Lessee is not in default hereunder, Lessee may arrange for the termination of the lease of such Equipment in the manner and with the consequences hereinafter set forth. After written notice to the Lessor and Lessor's assignee identifying the Equipment, the Lessee, on behalf of the Lessor, shall proceed directly with negotiating the sale of such Equipment, and the Lessor shall execute and transmit to the Lessee all papers needed to effectuate the sale. Lessee shall cause the proceeds of sale of such Equipment to be transmitted promptly to the Lessor or Lessor's assignee. The lease of such Equipment and the Lessee's obligation to pay rent shall continue until the end of the quarter during which such proceeds are received by the Lessor or Lessor's assignee, and shall thereupon terminate. If the net proceeds of sale of such Equipment are less than the estimated market value of such Equipment, the Lessee shall forthwith pay an amount equal to such deficiency.

11. **Loss or Destruction of the Equipment.** Lessee hereby assumes all risks of loss or damage to the Equipment howsoever the same may be caused. Lessee shall notify Lessor promptly upon learning of any loss or of any substantial damage to any Equipment and shall keep Lessor informed of all developments and correspondence regarding insurance rights and other rights and liabilities arising out of the loss or damage. In the event of total destruction of any of the Equipment or damage beyond repair or the commandeering, conversion or other loss of any of the Equipment, or if the use thereof by the Lessee in its regular course of business is prevented by the act of any third person or persons, or any governmental instrumentality, for a period exceeding ninety (90) days, or if any of the Equipment is attached (other than on a claim against the Lessor but not the Lessee) or is seriously damaged and the attachment is not removed or the Equipment not repaired, as the case may be, in a period of ninety (90) days, then in any such event (a) Lessee shall promptly notify Lessor in writing of such fact, (b) within ten (10) days thereafter the Lessee shall pay to the Lessor, or Lessor's assignee, an amount equal to the estimated market value of such Equipment at the time of payment, (c) the lease of such Equipment shall continue until such payment has been received by the Lessor, or Lessor's assignee, and shall thereupon terminate, and (d) upon such payment all of Lessor's title to and rights in such Equipment and any insurance thereon shall automatically pass to the Lessee.
12. **Surrender of Equipment.** Upon the final termination of the lease as to any Equipment (other than a termination as provided for in Sections 10 or 11), Lessee shall surrender such Equipment to the Lessor at the Lessee's property where the Equipment is then located or at such other place as may be agreed upon. Lessee shall cooperate with Lessor in effecting removal of the Equipment from Lessee's property. Lessee shall pay the Lessor any amount by which the cost of removing and disposing of any Equipment exceeds the salvage value of the Equipment.
13. **Events of Default.** The following events of default by the Lessee shall give rise to rights on the part of the Lessor described in Section 14:
 - (a) Default in the payment of rent hereunder beyond the fifteenth (15th) day of the quarter for which the rent is due; or
 - (b) Default in the payment or performance of any other liability, obligation, or covenant of the Lessee to the Lessor and the continuance of such default for thirty (30) days after written notice to the Lessee sent by registered or certified mail by the Lessor; or

- (c) The termination of existence or business failure of, or the making of an assignment for the benefit of creditors by, the Lessee; or
- (d) The institution of bankruptcy, reorganization, liquidation or receivership proceedings by or against the Lessee and, if instituted against the Lessee, its consent thereto or the pendency of such proceedings for thirty (30) days.

14. Rights of Lessor upon Default of Lessee. Upon the occurrence of any of the events of default described in Section 13 the Lessor may in its discretion do one or more of the following:

- (a) Terminate this lease upon five (5) days' written notice to the Lessee sent by ordinary mail;
- (b) Whether or not this lease is terminated, take immediate possession of any or all of the Equipment, including substituted parts, accessories or equipment and/or other equipment or property of the Lessor in the possession of the Lessee, wherever situated, and for such purpose, enter upon any premises without liability for so doing;
- (c) Whether or not any action has been taken under Sections 14(a) or (b) above, the Lessor may sell any Equipment (with or without the concurrence or request of the Lessee) with the consequences set forth in Section 10 hereof;
- (d) Sell, dispose of, hold, use or lease any Equipment or other property of the Lessor as the Lessor in its sole discretion may decide, without any duty to account to Lessee with respect to such action or any proceeds thereof.

If after default Lessee fails to deliver or converts or destroys any Equipment, Lessee shall be liable to the Lessor for all unpaid rent to the date of such failure to deliver, conversion or destruction of such Equipment plus its estimated market value at the time and plus all costs and expenses incurred by reason of the default. If after default Lessee delivers Equipment to Lessor or if Lessor repossesses Equipment, Lessee shall be liable for and the Lessor may recover from the Lessee all unpaid rent to the date of such delivery or repossession plus all loss and damages sustained and all costs and expenses incurred by reason of the default.

15. Equipment to be and Remain Personal Property. It is the intention and understanding of both Lessor and Lessee that all Equipment shall be and at all times remain personal property. Lessee will obtain and record such instruments and take such steps as may be necessary to prevent any person from acquiring any rights in the Equipment paramount to the rights of the Lessor, its assignees or mortgagees by reason of such Equipment being deemed to be

real property. If, notwithstanding the intention of the parties and the provisions of this Section 15, any person acquires or claims to have acquired any rights in any Equipment paramount to the rights of the Lessor, its assignees or mortgagees, by reason of such Equipment being deemed to be real property, and such person seeks in any manner to interfere with the continued quiet enjoyment of the Equipment by the Lessee as contemplated by this Agreement, then the Lessee shall promptly notify the Lessor in writing of such fact (unless the basis for such interference is waived or eliminated to the satisfaction of the Lessor within a period of ninety (90) days from the date it is asserted) and the Lessee shall within ninety (90) days after such notice pay to the Lessor or Lessor's assignee an amount equal to the estimated market value of the Equipment at the time of payment. The lease of the Equipment shall continue until such payment and shall thereupon terminate at the end of the month during which such payment shall have been received by the Lessor or Lessor's assignee; and upon such payment all of Lessor's title to and rights in such Equipment shall automatically pass to the Lessee.

16. Miscellaneous. This Agreement and all rights hereunder shall be governed by the law of Massachusetts. Each of the parties hereto acknowledges that the other party shall not by act, delay, omission or otherwise be deemed to have waived any of its rights or remedies hereunder or under any other instrument given hereunder unless such waiver is given in writing and the same shall be binding to the extent therein provided and only upon the parties signing the same. A waiver on any one occasion shall not be construed as a waiver on any future occasion. No executory agreement shall be effective to change, modify or discharge, in whole or in part, this Railroad Equipment Leasing Agreement, or any other instrument given in connection therewith unless such executory agreement is in writing and signed by the party to be charged therewith. All rights, remedies and powers granted herein, or in any other instrument given in connection herewith, shall be cumulative and may be exercised singularly or cumulatively.
17. Investment Tax Credit. To the extent that any Equipment leased hereunder is or becomes eligible for the investment credit under the Internal Revenue Code as now or hereafter in effect, Lessor shall elect to treat the Lessee as having acquired such Equipment and shall provide Lessee with an appropriate investment credit election provided that Lessee shall indemnify and hold harmless Lessor with respect to any adverse tax consequence other than the loss of the credit which may result from such election, and Lessee shall provide Lessor with a report or statement with respect to all Equipment as to which the investment credit election is applicable, such report or statement to be in such form as may be required for Internal Revenue Service reporting.

18. No Warranties by Lessor. As between Lessor and Lessee, acceptance of the Equipment by Lessee and execution by Lessee of an Individual Leasing Record with respect thereto shall constitute Lessee's acknowledgement and agreement that the Equipment is in good order and condition and is of the manufacture, design and capacity selected by Lessee, that Lessee is satisfied that the same is suitable for its purpose and that Lessor has not made and does not hereby make any representation, warranty or covenant with respect to merchantability, condition, quality, durability or suitability of the Equipment in any respect or in connection with, or for the purposes or uses of Lessee, or any other representation, warranty or covenant of any kind or character, express or implied, with respect to the Equipment.
19. Assignment by Lessor of Rights Under This Lease and Mortgages of Equipment to an Assignee. Lessee acknowledges notice that Lessor proposes to finance its acquisition and ownership of the Equipment by borrowing and in that connection may, as security, grant to an Assignee chattel mortgages on the Equipment, it being understood, however, that such chattel mortgages shall contain a provision to the effect that as long as Lessee is not in default hereunder or under any lease, it shall be entitled to uninterrupted use of the Equipment on the terms herein provided. Lessee also acknowledges notice of the intended assignment by the Lessor to an Assignee of the rents and all other sums due and to become due hereunder, all as security for obligations of the Lessor to the Assignee. After such assignment the terms and provisions of this Agreement may not be altered, modified or waived without the written consent of such Assignee and after such assignment and written notice thereof to the Lessee, the Lessee shall make payment of all rents and other payments due hereunder directly to the Assignee, and such payments shall discharge the obligations of Lessee to Lessor hereunder to the extent of such payments. The assignment by the Lessor to the Assignee of rights hereunder shall not transfer to the Assignee the general title to Equipment or impose on the Assignee any of the duties or obligations of the Lessor hereunder, but in all other respects the Assignee shall have all the rights of the Lessor hereunder to the extent necessary to realize upon rents and other monies payable by the Lessee and to protect the Assignee's security interest in Equipment resulting from the chattel mortgage.

20. Filing of Railroad Equipment Leasing Agreement. The parties agree that this Railroad Equipment Leasing Agreement shall be filed by the Lessor with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act. Upon request by the Lessor, the Lessee will prepare, execute, acknowledge and deliver to Lessor one or more Supplements to this Leasing Agreement describing units of Equipment leased hereunder and Lessor shall execute, acknowledge and file such Supplements with the Interstate Commerce Commission. Upon termination of the lease of any unit of Equipment Lessor and Lessee shall execute any appropriate instrument requested by the other for filing with the Interstate Commerce Commission as evidence of termination of the lease of such unit of Equipment.
21. Mileage Allowances. Lessor agrees that, unless an event of default specified in Section 13 hereof shall have occurred and be continuing, Lessee shall be entitled to receive and retain all mileage allowances, rentals and/or other compensation payable by carriers by reason of use of the Equipment (hereinafter called "Mileage") paid to Lessee, insofar as applicable laws and regulations allow.

The Lessee agrees so to use the Equipment that the Lessor shall not be obligated to make any payment to any railroad company of Mileage or other charge as a result of the use of the Equipment over the lines of such railroad company, whether because of the relationship of Mileage under load and empty mileage or otherwise, and if the Lessor shall be required to make any such payment to any railroad company, the Lessee agrees to immediately reimburse the Lessor for each such payment. For the purposes of this paragraph, railroad mileage and junction reports relating to the Equipment shall be prima facie evidence of the facts reported therein.


Notwithstanding anything in this Section 20 contained, the Lessee shall remain liable for the payment of all rents and all other sums due Lessor or any Assignee of Lessor under this Railroad Equipment Leasing Agreement and for the performance and observance of all the other covenants, conditions and agreement of this Railroad Equipment Leasing Agreement.

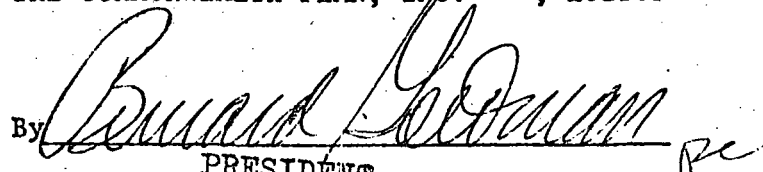
IN WITNESS WHEREOF, Lessor and Lessee have duly executed this Leasing Agreement as of the day and year first above written.

IN SIX PARTS

Attest:

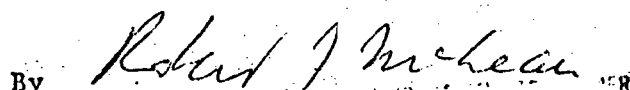
THE COMMONWEALTH PLAN, INC., Lessor


Clerk

By 
PRESIDENT
SOUTHERN PACIFIC TRANSPORTATION, Lessee
COMPANY

Attest:



By 

COMMONWEALTH OF MASSACHUSETTS) ss:
COUNTY OF SUFFOLK)

On this 15th day of September, 1972, before me personally appeared BERNARD GOLDMAN, to me personally known, who, being by me duly sworn, says that he is President of THE COMMONWEALTH PLAN, INC., that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Gerardine A. Delaguer
Notary Public

My Commission Expires: 10/18/78

STATE OF CALIFORNIA)
COUNTY OF SAN FRANCISCO) ss:

On this 15th day of September, 1972, before me personally appeared ROBERT J. McLEAN, to me personally known, who, being by me duly sworn, says that he is Vice President and Treasurer of SOUTHERN PACIFIC TRANSPORTATION COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Fred J. Crowe
Notary Public

My Commission Expires:

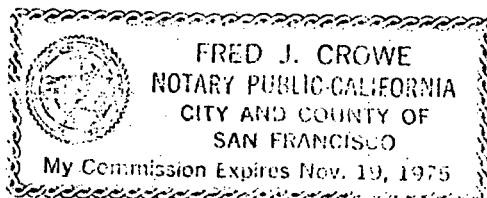


EXHIBIT A

Rent and estimated market values for Equipment having an Acquisition Cost of \$1,000.

Daily Rent for any partial first quarter: \$.22
 Rent for each of first full 60 quarters: \$28.56

ESTIMATED MARKET
 VALUE (after pay-
 ment of rent for
 such quarter)

QUARTER

1	991.13
2	982.08
3	972.85
4	963.44
5	953.85
6	944.07
7	934.10
8	923.93
9	913.56
10	902.99
11	892.21
12	881.22
13	870.01
14	858.58
15	846.92
16	835.03
17	822.91
18	810.55
19	797.95
20	785.10
21	772.00
22	758.64
23	745.02
24	731.13
25	716.96
26	702.52
27	687.79
28	672.77
29	657.46
30	641.84
31	625.92
32	609.68
33	593.12
34	576.24
35	559.02
36	541.47
37	523.57
38	505.32
39	486.71
40	467.73

ESTIMATED MARKET
 VALUE (after pay-
 ment of rent for
 such quarter)

QUARTER

41	448.38
42	428.65
43	408.53
44	388.01
45	367.09
46	345.76
47	324.01
48	301.83
49	279.21
50	256.15
51	232.63
52	208.65
53	184.20
54	159.27
55	135.85
56	107.93
57	81.49
58	54.53
59	27.04
60	0.00

THE COMMONWEALTH PLAN, INC., Lessor

By Bernard Goodman

PRESIDENT

SOUTHERN PACIFIC TRANSPORTATION
 COMPANY, Lessee

By Robert J. McLean

VICE PRESIDENT AND TREASURER